



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket No. USCG-2012-0100]

RIN 1625-AA00; 1625-AA08

Special Local Regulation and Security Zone: War of 1812
Bicentennial Commemoration, Port of Boston, Massachusetts

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to adopt a temporary special local regulation and temporary security zones, during, and after the War of 1812 Bicentennial Commemoration events in the Port of Boston, Massachusetts, to be held between June 28, 2012 and July 6, 2012. These regulations are necessary to promote the safe navigation of vessels and the safety of life and property during the heavy volume of vessel traffic expected during this event.

DATES: Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Requests for public meetings must be received by the Coast Guard on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN**

THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2012-0100 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Mr. Mark Cutter, Coast Guard Sector Boston, Waterways Management Division, telephone 617-223-4000, e-mail Mark.E.Cutter@uscg.mil or Lieutenant Junior Grade Isaac Slavitt, Coast Guard First

District Waterways Management Branch, telephone 617-223-8385, e-mail Isaac.M.Slavitt@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-0100), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via www.regulations.gov, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand

deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0100 in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-

2012-0100 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility. A copy of this proposal will also be placed in the local notice to mariners.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

Public meeting

We do not now plan to hold a public meeting, but you may submit a request for one on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** using one of the four methods specified under ADDRESSES. Please explain why you believe a public meeting would be

beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

The event sponsor hosted a planning and coordination meeting that was open to the public on October 12, 2011 and held an Initial Planning Conference on February 14-15, 2012 in Boston, MA. Recommendations to employ a similar pattern to that which was used during the Sail Boston 2009 events was recommended during this meeting and that recommendation is incorporated into this document. Additionally, informal discussions were held December 21, 2011 and January 18, 2012 during the Boston's Port Operators Group Meeting, and comments concerning the use of traffic patterns the way they were used during Sail Boston 2009 have been addressed. The War of 1812 Bicentennial Commemoration Events will be a topic on the agenda in future monthly Boston Port Operators Group Meetings. On January 26, 2012 the Coast Guard held an informal meeting with federal, state and local government agencies to brief them on the planning the Coast Guard is doing for the War of 1812 Bicentennial Commemoration Events; this meeting was attended by some local business leaders. Nothing discussed at this meeting impacted the drafting of this proposed regulation.

Basis and Purpose

The legal basis for the proposed rule is 33 U.S.C. 1225, 1226, 1231, 1233; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; Pub. L. 107-295, 116 Stat. 2064; Ports and Waterways Safety Act and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define special local regulations and security zones.

The proposed temporary regulations are for the War of 1812 Bicentennial Commemoration events to be held in Boston Harbor, which the U.S. Coast Guard has designated this as a Marine Event of National Significance. These events will be held from June 28, 2012 through July 6, 2012. This rule is proposed to provide for the safety of life on navigable waters and to protect U.S. and Foreign military vessels, U.S. and foreign government sailing vessels, private vessels, spectators, and the Port of Boston during these events.

Discussion of Proposed Rule

The United States Navy is planning a series of events nationwide to celebrate the commemoration of the War of 1812. The Port of Boston events will occur between June 28 and July 6, 2012. The events will consist of a gathering of U.S and foreign military vessels, U.S. and foreign

government sailing vessels mooring in various berths throughout the Port of Boston.

At the time of this notice, War of 1812 Bicentennial Commemoration events are expected to include the following:

1. June 28-29 - Multiple U.S. and foreign military vessels arrive;
2. June 30: Arrival of the U.S. and foreign government sailing vessels;
3. June 28 through July 06: Security Zones in effect;
4. June 30 through July 06: Public tours of U.S and Foreign military vessels and U.S and foreign government sailing vessels;
5. June 29 through July 06: Vessel movement control measures in effect;
6. July 4: USS CONSTITUTION and USCGC EAGLE Parade;
7. July 4: USN Blue Angels aerial demonstration.

On July 4, starting at 11:00 a.m. there will be salute to the USS CONSTITUTION and USCGC EAGLE as they sail from Constitution Pier, outbound Boston Main Channel to Castle Island and return. This will be followed by an air demonstration by the Navy's Blue Angels above Boston Inner Harbor at approximately 12:15 p.m.

Special Local Regulations

In the year 2009, a similar event, Sail Boston 2009, drew several hundred thousand spectators by both land as well as water to Boston Harbor.

Recognizing the significant draw this event may have on recreational boating traffic, the Coast Guard's proposes to establish a special local regulation that would create vessel movement control measures in Boston Harbor through a Regulated Area, which will be in effect during the War of 1812 Bicentennial Commemoration events.

This proposed regulated area is needed for vessel movement control measures and to facilitate law enforcement vessel access to support facilities. Additionally, the regulated areas will protect the maritime public and participating vessels from possible hazards to navigation associated with dense vessel traffic.

The proposed Regulated Area establishes a counter-clockwise traffic pattern around Boston Inner Harbor to ensure spectator vessels are following an organized route, facilitating the smooth flow of boating traffic, thereby minimizing disruption on the waterway. A Coast Guard Patrol Commander (PATCOM) will be designated and on scene controlling the flow of traffic through the Regulated Area.

The waterway between the World Trade Center Pier and

the Fish Pier, as well as the waterway within the Reserved Channel do not constitute large areas for unhindered navigation. Due to the navigation restrictions in these waterways, when vessels over 125 feet enter the area, on-scene patrol personnel will halt the flow of vessel traffic and allow no other vessel in the channel until the vessel greater than 125 feet is clear of the narrow channel.

Due to concerns of tenants at the World Trade Center, Fish Piers and the Black Falcon Terminal, waterside viewing hours for vessels berthed at these facilities will be limited to times specified in the regulatory text, outside of which only vessels which are tenants within the channels of the World Trade Center, Fish Pier and Reserved Channel will be authorized access within those areas.

Security Zones

Additionally, the Coast Guard is proposing to establish 25-yard security zones surrounding participating vessels while moored. The proposed regulations would be in effect in Boston Harbor throughout the effective period. These restrictions are expected to minimize the risks associated with the anticipated large number of recreational vessel traffic within the confines of Boston Inner Harbor operating in conjunction with commercial deep draft vessel traffic that pose a significant threat to the

safety of life.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

Although this regulation imposes traffic restrictions in portions of Boston Harbor during the events, the effect of this regulation will not be significant for the following reasons: the regulated area and security zones will only be in place during the week long War of 1812 activities, and Extensive advance notice will be made to mariners via appropriate means, which may include broadcast notice to mariners, local notice to mariners, facsimile,

marine safety information bulletin, local Port Operators Group meetings, the Internet, USCG Sector Boston Homeport webpage, and local newspapers and media. The advance notice will permit mariners to adjust their plans accordingly. Additionally, the regulated area is tailored to impose the least impact on maritime interests without compromising safety.

Similar restrictions were established for Sailing Boston 1992, 2000, and 2009 events. Based upon the Coast Guard's experiences from those previous similar magnitude events, these proposed regulations have been narrowly tailored to impose the least impact on maritime interests yet provide the necessary level of safety.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic

impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit, fish, or anchor in portions of Boston Harbor during various times during the effective period.

The proposed rule would not have a significant economic impact on a substantial number of small entities for the same reasons outlined in the **Executive Order 12866** and **Executive Order 13563** section above.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning

its provisions or options for compliance, please contact the person listed under FOR FURTHER INFORMATION CONTACT. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the

aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use

voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action appears to be one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination will be available

in the docket where indicated under ADDRESSES. This rule appears to be categorically excluded, under figure 2-1, paragraphs (34)(g) and (h) of the Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, and Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Parts 100 and 165 as follows:

PART 100--REGATTAS AND MARINE PARADES

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233,

2. Add temporary Sec. 100.T01-0100 to read as follows:

§ 100.T01-0100 Special Local Regulation; War of 1812 Bicentennial Commemoration, Port of Boston, Massachusetts

(a) Location: This special local regulation establishes a regulated area to include all waters west of a line drawn from the monument at Castle Island in approximate position 42°20'21"N, 71°00'37"W, to the Logan Airport Security Zone Buoy "24" in approximate position 42°20'45"N, 71°00'29"W, and then to land in approximate position 42°20'48"N, 71°00'27"W, including the Reserved Channel to the Summer Street retractile bridge in approximate position 42°20'34"N, 71°02'11"W, the Charles River to the Gridley Locks at the Charles River Dam in approximate position 42°22'07"N, 71°03'40"W, the Mystic River at the Alford Street Bridge in approximate position 42°23'22"N, 71°04'16"W, and the Chelsea River to the McArdle Bridge in approximate position 42°23'09"N, 71°02'21"W.

(b) Special Local Regulations. (1) During the effective period, vessel operators transiting through the regulated area shall proceed in a counterclockwise direction at no wake speeds not to exceed five knots, unless otherwise authorized by the Captain of the Port.

(2) Vessel operators shall comply with the instructions of on-scene Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard onboard

Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

(3) From 9:00 a.m. on June 29, 2012 through 6:00 p.m. on July 6, 2012 vessel control measures will be implemented. The traffic pattern will be in a counterclockwise rotation, such that all vessels shall stay generally as far to the starboard side of the channel as is safe and practicable.

(4) To facilitate commercial ferry traffic with minimal disruption, commercial ferries within the regulated area, moving between stops on their normal routes, will be exempt from the mandatory counterclockwise traffic pattern. This exemption does not give ferries navigational precedence or in any way alter their responsibilities under the Rules of the Road or any other pertinent regulations.

(5) Vessel operators transiting the waterway between the Fish Pier and World Trade Center must enter and keep to the starboard side of the channel, proceeding as directed by on-scene Coast Guard patrol personnel. Vessel traffic shall move in a counterclockwise direction around a turning point as marked by an appropriate on-scene patrol vessel.

(6) Vessel operators transiting the regulated area must maintain at least twenty five (25) yard safe distance from all official War of 1812 event participants, all U.S.

military vessels under 100 feet, and all foreign military vessels, and must make way for all deep draft vessel traffic underway in the regulated area.

(7) When a vessel greater than 125 feet enters the waterway between the World Trade Center and the Fish Pier and inside the Reserved Channel, no other vessel will be allowed to enter until that vessel departs that area unless authorized by the on-scene Patrol Commander.

(8) From 10:00 p.m. through 8:00 a.m. daily, while regulated area is in effect, only vessels which are tenants within the channels of the World Trade Center, Fish Pier and Reserved Channel will be authorized access.

(9) The Captain of the Port (COTP) may control the movement of all vessels operating on the navigable waters of Boston Harbor when the COTP has determined that such orders are justified in the interest of safety by reason of weather, visibility, sea conditions, temporary port congestion, and other temporary hazards circumstance.

(c) Enforcement period. This regulation will be enforced from 9:00 a.m. on June 29, 2012 through 6:00 p.m. on July 6, 2012.

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS
AREAS

3. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6 and 160.5; Publ. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

4. Add temporary Sec. 165.T01-0100 to read as follows:

§ 165.T01-0100 Security Zones: War of 1812 Bicentennial
Commemoration, Port of Boston, Massachusetts

(a) Location. The following are security zones: a twenty five (25) yard safety and security zone around all moored official War of 1812 event participants, all moored U.S. military vessels under 100 feet, and all foreign military vessels within the Captain of the Port Zone Boston.

(b) Definitions. For purposes of this section "Designated on-scene representative" is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port (COTP) Boston to act on the COTP's behalf. The designated on-scene representative may be on a Coast Guard vessel, or onboard a

federal, state, or local agency vessel that is authorized to act in support of the Coast Guard.

(c) Enforcement period. This regulation will be enforced from 9:00 a.m. on June 28, 2012 until 6:00 p.m. on July 06, 2012.

(d) Regulations. (1) In accordance with the general regulations in 33 CFR 165.33, subpart D, no person or vessel may enter, transit, anchor or otherwise move within the security zones created by this section unless granted permission to do so by the COTP Boston or the designated on-scene representative.

(2) Vessel operators desiring to enter or operate within the security zone shall contact the COTP or the designated on-scene representative via VHF channel 16 to obtain permission.

(3) Penalties. Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: 15 MAR 2012

J. N. Healey
Captain, U.S. Coast Guard
Captain of the Port Boston

[FR Doc. 2012-7917 Filed 04/02/2012 at 8:45 am; Publication Date:
04/03/2012]